

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of Confirmation No. 8422
Caroline JACOBSON Atty. Ref.: 2380-944
Appl. No. 10/563,319 TC/A.U. 2617
Filed: January 4, 2006 Examiner: Phuoc Huu DOAN
For: INDICATING AVAILABILITY STATUS OF SERVICES PROVIDED BY A
MOBILE COMMUNICATION NETWORK

* * * * *

October 7, 2011

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

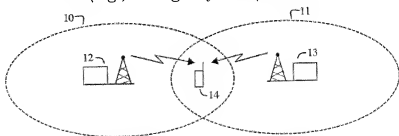
Applicant requests a pre-appeal review of the final rejections made in the June 7, 2011 Final Office Action (*hereinafter* FOA). This request is being filed with a notice of appeal. The review is requested for the reason(s) stated below.

STATUS

Claims 1-18 are pending, of which claims 1, 8, 9 and 12 are independent. Independent claims 1, 8 and 12 are indicated to be allowable and independent claim 9 stands rejected. FOA, pp.2-3, *item 1*.

SUBJECT MATTER

Original Disclosure, at least in part, is directed addressing a circumstance in which certain services (e.g., emergency calls) in a network are unavailable, but are available in a backup network. For explanation purposes, Figure 1 (*see right*) of the Original Disclosure is reproduced. For example, a first network 10 (e.g., UTRAN) may normally provide emergency call services. However, the service may temporarily be unavailable, e.g., due to network congestion.



Original Disclosure: Figure 1

Conventionally, a user equipment 14 may use a second network 11 (e.g., GSM) as a backup for the service. But in order to do so, the user equipment 14 must move entirely to the second network 11 even though the first network 10

may still be able to provide other services needed by the user equipment 14. Alternatively, the user equipment 14 can remain associated with the first network 10, but this would mean that the emergency call service would remain unavailable. *Original Disclosure, p. 1, l.4 – p.2, l.5.*

To address the above described and other drawbacks of the conventional system, the availability of services to user equipments are increased in one or more aspects of the Original Disclosure. For example, referring back to Figure 1, it is assumed that the user equipment 14 is being served by the first network 10. The first network 10 includes means to inform the user equipment 14 about the availability of services (e.g., UTRAN services). *Original Disclosure, p.4, l.25 – p.5, l.30.* Also, the first network 10 is capable of redirecting the user equipment 14 to the second (backup) network 11 in cases where a needed service in the first network 10 becomes unavailable. The unavailability can be due several reasons including link interruptions, congestions, and shortage of resources. The needed service may be a service requested by the user equipment. *Original Disclosure, p.6, l.17 – p.7, l.2.*

The user equipment 14 can inform the first network 10 about the priority of a requested service. This allows the first network 10 to make the right decisions regarding whether or not the user equipment 14 should be redirected to second network 11. For example, the user equipment 14 inform the first network 10 about the priority of the requested service and whether the current services can be released to make sure that the new attempt will work. *Original Disclosure, p.9, l.28 – p.10, l.18.*

This is reflected in claim 9, which recites “means for retrieving information, from the first cellular mobile communication network, about the availability status of at least a range of services that are provided by said first communication network” and “means for indicating to said first communication network the priority of a requested service.”

REJECTION CLEARLY ERRONEOUS

Claims 9 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schwarz et al. (U.S. Publication No. 2007/0264994, *hereinafter Schwarz*) in view of Lucidarme (U.S. Patent No. 7,123,910, *hereinafter Lucidarme*). FOA, pp.2-3, item 1.

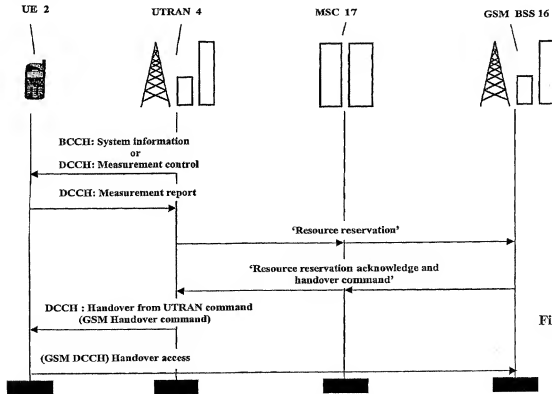
On the contrary, the Schwarz-Lucidarme does not teach or suggest all claimed features. For example, claim 9 recites that the user equipment comprises means for retrieving information about the availability status of at least a range of services that are provided by the first communication network. The Examiner correctly admits that Schwarz does not teach or suggest this feature, but wrongly alleges that Lucidarme corrects this deficiency.

Lucidarme is directed toward providing systems, apparatus and methods to allow a change of radio access technology (RAT) even between uncoordinated radio access networks. *Lucidarme, c.1, ll.7-15.* Lucidarme notes that

handovers of a mobile terminal between two systems operating in different radio access technologies (RAT), e.g., UMTS and GSM, require close co-operation between the two systems. Each system is subject to change, such as changing cell sizes, cell frequency allocations, number of cells. This information is communicated from one system to another via the Operation & Maintenance System (OMS).

Two systems in which system information is exchanged between the relevant OMS are referred to as "coordinated systems". Lucidarme also notes that such level of co-ordination becomes increasingly difficult to implement as the number of alternative systems increases. Lucidarme addresses this issue by allowing handovers between uncoordinated systems. *Lucidarme*, c.2, l.48 - c.3, l.31.

The Examiner mistakenly alleges that Lucidarme in Figures 2 and 6 and c.8, ll.10-64 discloses the "range of services" feature. FOA, p.3. With respect to Figure 2 (*see below*), Lucidarme merely indicates that the UTRAN 4 requests a measurement report and the mobile terminal 2 provides the measurement report to the UTRAN 4, which in turn decides on an inter-system handover of the mobile terminal between the UMTS to GSM. *Lucidarme*, c.2, ll.14-40. Nothing here indicates that the mobile terminal 2 retrieves availability status of a range of services from the UTRAN 4.



Lucidarme: Figure 2

Figure 6 (see below) and c.8, ll.10-64 of Lucidarme together describe a handover of a mobile terminal 10 from a UMTS network 20 to another network 30 (HIPERLAN), 40 (Bluetooth) or 44 (LAN).

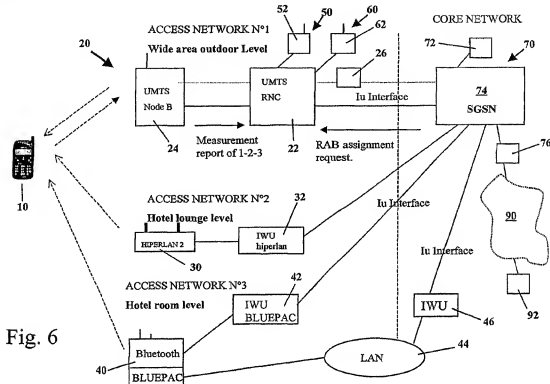


Fig. 6

Lucidarme: Figure 6

The process begins when the mobile terminal 10 makes a service request to the UMTS network 20, e.g., for a certain Quality of Service requirement such as data rate, needed bandwidth, and allowable transmission delay. The request, which may be sent with a Radio Resource Control (RRC) connection request, is received by the RNC 22. The RNC 22 examines the request to see if it involves a packet switched service to be routed via the SGSN 74 or a circuit switched service to be routed via the MSC 78. In the case of a packet switched service, the RNC 22 requests a radio resource from the SGSN 74, i.e., makes a request for a Radio Access Bearer (RAB). *Lucidarme, c.8, ll.10-50.*

To assess an optimized access network for this service, the RNC 22 requires measurement information from the mobile terminal 10. The measurement report includes measurement values of radio networks which are in receiving range of the mobile terminal 10. The mobile terminal 10 scans to detect and measure available radio sources and reports the results to the RNC 22. *Lucidarme, c.8, ll.51-64.*

When the RNC 22 has received the service request, the measurement report and the RAB assignment from the SGSN 74, it decides which service is best suited to provide the service with the required QoS including whether or

not the service would be better provided by another network, in which case the RNC 22 initiates a handover. The RNC 22 then sends a message instructing the SGSN 74 that a RAB relocation to another network is required, and also instructs the mobile terminal 10 to which network the mobile terminal 10 will be handed over. The mobile terminal 10 then synchronizes with the new network. *See e.g. c.10, ll.10-44.*

In Lucidarme, the RNC 22 merely instructs the mobile terminal 10 to provide it with measurement reports of signals of other networks, and informs the mobile terminal 10 whether a handover should be performed in the event that the requested service is determined to be better handled by a different network. Nothing in Lucidarme even remotely suggests that the RNC 22 provides availability information on "a range of services." Consequently, Lucidarme cannot teach or suggest the mobile terminal 10 retrieving information about the availability status of range of services since the RNC does not provide range of services status.

Since both Schwarz and Lucidarme do not teach or suggest the feature of "means for retrieving information, from the first cellular mobile communication network, about the availability status of at least a range of services that are provided by said first communication network" recited in claim 9, the Schwarz-Lucidarme combination cannot teach or suggest the same feature. Thus, the Examiner's reliance on the Schwarz-Lucidarme combination to reject claim 9 represents clear legal error for at least this reason.


CONCLUSION

As shown by the above analysis of the references, the rejection presented in the FOA incorporates clear legal error. Furthermore, there is no disclosure of the claimed subject matter in the prior art, nor is the claimed subject matter rendered obvious in view of the prior art. The prior art rejection of claim 9 should be withdrawn.

Respectfully submitted.

NIXON & VANDERHYE P.C.

By: _____


Byung N. Sohn
Reg. No. 44,346

HNS/edg
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100